UNITED STATES DISTRICT COURT EASTERN DISTRICT OF MISSOURI SOUTHEASTERN DIVISION

CLOVIS LAGASSE,)
Plaintiff,))
v.) Cause No. 1:09CV177RWS
MICHAEL J. ASTRUE,)
Commissioner of Social Security,)
Defendant.)

MEMORANDUM AND ORDER

This matter is before me on a Report and Recommendation to dismiss Plaintiff's Complaint that seeks review of an adverse decision by Defendant. Neither of the parties has filed an objection to this recommendation.

This matter was referred to United States Magistrate Judge Frederick R. Buckles for a Report and Recommendation pursuant to 28 U.S.C. § 636(b). Judge Buckles issued a Report and Recommendation on October 27, 2010 that recommended that the Commissioner's Motion to Dismiss Plaintiff's Complaint be granted. Judge Buckles found that Plaintiff's Complaint was untimely filed because it was not filed within the sixty-day time limitation specified in 42 U.S.C. § 405(g), an extension of time was not obtained when Plaintiff's counsel did not receive a letter from the Appeals Council granting an extension, and there was insufficient evidence justify equitably tolling the limitations period.

Any objections to Judge Buckles Report and Recommendation had to be filed by November 10, 2010. Neither of the parties has filed an objection as of today's date.

Accordingly,

IT IS HEREBY ORDERED that the Report and Recommendation of the United States Magistrate Judge Buckles is **SUSTAINED**, **ADOPTED AND INCORPORATED** herein. The Defendant's Motion to Dismiss [#12] is **GRANTED**.

RODNEY W. SIPPEL

UNITED STATES DISTRICT JUDGE

Dated this 16th day of November, 2010.